

R E M A R K S

The final office action of January 13, 2006 has been reviewed and its contents carefully noted. Reconsideration of this case, as amended, is requested. Claims 1 through 5, 7, 9 through 18, and 20 through 23 remain in this case, claims 8 and 19 being cancelled, claims 1, 3, 11, and 13 being amended, and claims 20-23 being added by the present response. No new matter has been added. More specifically, the language "selectively engageable" of claims 1 and 11 is supported by Fig. 2 (before creep and not engaged) and Fig. 2a (after creep and engaged) of the supported as filed. The language "the clip creeps into engagement" of claim 3 also is supported by Fig. 2 (before creep and not engaged) and Fig. 2a (after creep and engaged) of the application as filed. The language "a mating portion located on a first end of the base" and "a clip-locking mechanism extending from a first end of the face corresponding to the first end of the base" of claim 11 is supported by Fig. 1a, Fig. 2, and Fig. 2a of the application as filed. The dart-type clip of claims 20, 21, and 23 is supported by page 2, line 13, page 3, lines 4 and 5, page 5, lines 6, 8, 10, 12, 14, and 16, page 6, lines 1 and 9, and Figs. 2 and 2a of the application as filed. The language of claim 22 is supported by claims 4 and 5 of the application as filed.

The numbered paragraphs below correspond to the numbered paragraphs in the Office Action.

Entry of this Response is earnestly requested, as it is believed (1) to place the entire application in condition for allowance, (2) not to raise any new issues or require further search, (3) to be directly responsive to the Office Action, and (4) to place the application in better form for appeal, should such appeal be necessary.

Applicant respectfully requests that if the Examiner determines that the amended claims as filed herein are not patentable as written, that she notify the Applicant's agent as soon as possible either to discuss the possibility of an Examiner's amendment to make the claims allowable or so that the Applicant may file an RCE with claim amendments.

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

The Applicant's agent, Kraig Haverstick, thanks the Examiner, Vicky Johnson, for discussing the case in a telephone interview on April 11, 2006.

There were no exhibits shown or demonstrations exhibited during the telephonic interview.

Pending claims 1 and 3 were discussed in the interview. Shimaya (U.S. Pat. No. 5,184,983), prior art of record, was discussed during the interview.

During the telephone interview, the Applicant's agent and the Examiner discussed the present invention in relation to the Shimaya patent. The Applicant's agent and the Examiner agreed that Shimaya does not show the present invention and the Examiner suggested two potential ways to amend the claims to overcome Shimaya: using the language "the clip member is selectively engageable" and a claim to the location of the clip. The Applicant's agent gratefully acknowledges the Examiner's suggestions and the revised claims in the present response are based on those suggestions.

The Applicant's agent also gratefully acknowledges the Examiner's statement that she would be amenable to considering after-final claim amendments for this case.

Applicant believes that this statement satisfies the requirements to file a Statement of the Substance of the Interview, and accurately represents the substance of the interview conducted. If the Examiner disagrees, or believes for any other reason that direct contact with Applicant's agent would advance the prosecution of the case to finality, she is invited to telephone the undersigned at the number given below.

Rejection under 35 U.S.C. §102

2. Claims 1-5 and 7-19 were rejected under 35 U.S.C. 102(b) as being anticipated by Shimaya (5,184,983). Applicant respectfully disagrees with the rejection.

"Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in prior pleaded art, there is no anticipation." *Stauffer v. Slenderella Systems of California, Inc.*, 254 F.2d 127, 115 USPQ 347 (9th Cir. 1957).

The device of amended claim 1 includes, in part, "a base having a mating portion; and a face ... comprising a clip, which mates with the mating portion of the base, that is free of force exerted on the face due to creeping deformation; wherein the clip is selectively engageable with the mating portion of the base".

Shimaya discloses a "U-shaped end hook engaging an end of the arm" (Abstract). The hook (55) is not free of force exerted on the face due to creep. The hook is restricted by a force exerted on the tensioner lever due to creeping deformation. Shimaya also discloses L-shaped elements (51), (52), (53), and (56) along the side of the shoe (42). These elements are not selectively engageable with the arm. Shimaya does not disclose a clip, which mates with a mating portion of a base, is free of force exerted on the face due to creeping deformation, and is selectively engageable with the mating portion of the base.

Shimaya does not disclose each and every element of Applicant's independent claim 1. Therefore, it is respectfully suggested that the rejection of independent claim 1 as being anticipated by Shimaya is overcome. Dependent claims 2-5, 7, 9-10, and 20, being dependent upon and further limiting claim 1, should also be allowable for that reason, as well as for the additional recitations they contain. Reconsideration and withdrawal of the rejection is respectfully requested.

The method of amended claim 11 includes, in part, the steps of "assembling the face and the base such that the clip-locking mechanism is not engaged with the mating portion and is selectively engageable with the mating portion; and engaging the clip locking mechanism with the mating portion, when the device is deformed due to creep".

Shimaya discloses a "U-shaped end hook engaging an end of the arm" (Abstract). Shimaya also discloses L-shaped elements (51), (52), (53), and (56) along the side of the shoe (42). The hook (55) and L-shaped elements are engaged with the end of the arm upon assembly. These elements are not selectively engageable with the arm. Shimaya does not disclose the steps of assembling a face and a base such that a clip-locking mechanism is not engaged with a mating portion and is selectively engageable with the mating portion and engaging the clip locking mechanism with the mating portion, when the device is deformed due to creep.

Shimaya does not disclose each and every element of Applicant's independent claim 11. Therefore, it is respectfully suggested that the rejection of independent claim 11 as being anticipated by Shimaya is overcome. Dependent claims 12 and 21-22, being dependent upon and further limiting claim 11, should also be allowable for that reason, as well as for the additional recitations they contain. Reconsideration and withdrawal of the rejection is respectfully requested.

The device of amended claim 13 includes, in part, "a base having a mating portion located on a first end of the base; and a face ... comprising a clip-locking mechanism extending from a first end of the face corresponding to the first end of the base and ... is free of force exerted on the face due to creeping deformation".

Shimaya discloses a "U-shaped end hook engaging an end of the arm" (Abstract). The hook (55) is not free of force exerted on the face due to creep. The hook is restricted by a force exerted on the tensioner lever due to creeping deformation. Shimaya also discloses L-shaped elements (51), (52), (53), and (56) along the side of the shoe (42). These elements do not extend from an end of the shoe. Shimaya does not disclose a clip-locking mechanism extending from a first end of the face corresponding to the first end of the base, wherein the clip-locking mechanism is free of force exerted on the face due to creeping deformation.

Shimaya does not disclose each and every element of Applicant's independent claim 13. Therefore, it is respectfully suggested that the rejection of independent claim 13 as being anticipated by Shimaya is overcome. Dependent claims 14-18 and 23, being dependent upon and further limiting claim 13, should also be allowable for that reason, as well as for the additional recitations they contain. Reconsideration and withdrawal of the rejection is respectfully requested.

Conclusion

Applicant believes the claims, as amended, are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with

Applicants' attorney would advance the prosecution of the case to finality, she is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:
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